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ERSKINE & TULLEY
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   A PROFESSIONAL CORPORATION
   MICHAEL J. CARROLL (St. Bar #50246)
   220 Montgomery Street, Suite 303
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   San Francisco, CA 94104
   Telephone: (415) 392-5431
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   Attorneys for Plaintiff
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                       UNITED STATES DISTRICT COURT
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                      NORTHERN DISTRICT OF CALIFORNIA
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   BOARD OF TRUSTEES OF THE AUTOMOTIVE ) NO. C 08 1594 JL
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   INDUSTRIES, et al.
                                              DECLARATION OF ATTORNEY
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                        Plaintiff,
                                              MICHAEL J.
                                                          CARROLL IN
                                              SUPPORT OF PLAINTIFF'S
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                                              EX PARTE APPLICATION FOR
             VS.
                                              ORDER TO CONTINUE CASE
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   L.A. SMITH & SONS INC., a California)
                                              MANAGEMENT CONFERENCE
   corporation
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                        Defendant.
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             I, MICHAEL J. CARROLL, certify:
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1. I am an attorney with the law firm of Erskine & Tulley, A Professional Corporation, attorneys for plaintiff, BOARD OF TRUSTEES OF THE AUTOMOTIVE INDUSTRIES WELFARE FUND, AUTOMOTIVE INDUSTRIES PENSION FUND, JIM BENO TRUSTEE, in this action. I am duly admitted to practice law in the United States District Court, Northern District of California. If called as a witness, I could and would competently testify as follows:

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2. Service was accomplished upon the only party in this case on June 16, 2008. No responsive pleading has been filed, although defendant has been represented by counsel.

<u>DECLARATION OF ATTY MICHAEL J. CARROLL IN SUPP OF PLNTFS' EX PARTE APPL FOR ORDER TO CONTINUE CASE MANAGEMENT CONFERENCE</u>

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- 3. The parties have engaged in settlement discussions which are still in progress. Defendant's attorney did not return a Notice and Acknowledgment of Receipt so service has been accomplished.
- 4. It is requested that the Court continue the Case
  Management Conference some ninety days hence because we are trying to
  settle the case.
- 5. Good cause exists to grant plaintiff's request for a continuance of the Case Management Conference currently set for July 2, 2008 to October 1, 2008 to allow the parties time to settle this case and to avoid any unnecessary burden to the Court.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on June 24, 2008 at San Francisco, California.

/s/ Michael J. Carroll
Michael J. Carroll

## PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to the within above entitled action; my business address is 220 Montgomery Street, Suite 303, San Francisco, California 94104. On June 24, 2008 I served the within **DECLARATION OF ATTORNEY MICHAEL J. CARROLL IN SUPPORT OF PLAINTIFF'S EX PARTE APPLICATION FOR ORDER TO CONTINUE CASE MANAGEMENT CONFERENCE** on the defendant in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States post office mail box at San Francisco, California, addressed as follows:

L. A. Smith & Sons 903 Williams Street San Leandro, CA 94577

I, SHARON EASTMAN, certify (or declare), under penalty of perjury that the foregoing is true and correct.

Executed on June 24, 2008 at San Francisco, California.

16 /s/ S

/s/ Sharon Eastman Sharon Eastman